

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

MAR 04 2016

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

LARRY WAYNE SMITH,) CASE NO. 7:14CV00686

In accordance with the accompanying memorandum opinion, it is hereby

ADJUDGED AND ORDERED

as follows:

1. After the court's de novo review of the pertinent portions of the record, petitioner's objections to the magistrate judge's report and recommendation are **OVERRULED**, and the report and recommendation (ECF No. 25) is **ADOPTED** in its entirety as the memorandum opinion of the court;
 2. Respondent's motion to dismiss (ECF No. 8) is **GRANTED**, and the petition for a writ of habeas corpus under 28 U.S.C. § 2254 is **DISMISSED** with prejudice and stricken from the active docket of the court; and
 3. Finding that petitioner has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

ENTER: This 4th day of March, 2016.

YerComas

Chief United States District Judge
